

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JEFFREY WARREN SPINNEY,

Plaintiff,

v.

UNITED STATES OF AMERICA, et al.,

Defendants.

Civil Action No. 06-309 Erie

MEMORANDUM ORDER

This civil rights action was received by the Clerk of Court on December 28, 2006 and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 43], filed on November 21, 2008, recommended that Defendants' partial motion to dismiss or in the alternative for summary judgment [Doc. No. 37] be granted. The Magistrate Judge further recommended that the Clerk of Courts be directed to terminate all individual Defendants from this action.

The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendants. No objections were filed. After de novo review of the motion and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 18th day of December, 2008;

IT IS HEREBY ORDERED that the Defendants' partial motion to dismiss or in the alternative for summary judgment [Doc. No. 37] is GRANTED. The Clerk of Courts is directed to terminate all individual Defendants from this action.

The Court adopts the Report and Recommendation [Doc. No. 43] of Magistrate Judge Baxter, filed on November 21, 2007 as the opinion of the Court.

s/ Sean J. McLaughlin
United States District Judge

cm: All parties of record
Susan Paradise Baxter, U.S. Magistrate Judge